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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

XIAO YAN TAO,  
Plaintiff,  
v.  
ESQUIEL ALCAZAR, et al.,  
Defendants.

No. 2:16-cv-02712-KJM-KJN

ORDER

The only issue in this case is unlawful detainer, with an amount in controversy of less than \$3,000. See ECF No. 1 at 7. Defendants Esquiel Alcazar and Maria Alcazar have filed motions to proceed in forma pauperis. ECF Nos. 2, 3.

When a case “of which the district courts of the United States have original jurisdiction” is initially brought in state court, a defendant may remove it to federal court. 28 U.S.C. § 1441(a). There are two bases for federal subject matter jurisdiction: (1) federal question jurisdiction under 28 U.S.C. § 1331, and (2) diversity jurisdiction under 28 U.S.C. § 1332. A federal district court may remand a case *sua sponte* where a defendant has not established federal jurisdiction. See *Enrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988) (citing *Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97 (1921)). “If at any time

1 before final judgment it appears that the district court lacks subject matter jurisdiction, the case  
2 shall be remanded.” 28 U.S.C. § 1447(c).

3 Here, the court finds the case should be remanded to the San Joaquin County  
4 Superior Court. Because the amount in controversy is less than \$75,000, and the only issue turns  
5 on state law, removal is improper because this court does not have subject matter jurisdiction  
6 under 28 U.S.C. §§ 1331 and 1441.

7 This case is remanded to San Joaquin County Superior Court. Defendants’ IFP  
8 motions are DENIED as MOOT.

9 This resolves ECF Nos. 1, 2, and 3.

10 IT IS SO ORDERED.

11 DATED: November 30, 2016

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15 UNITED STATES DISTRICT JUDGE  
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